

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION

CIVIL ACTION FILE NO.: 5:19-CV-445-FL

PHILADELPHIA INDEMNITY  
INSURANCE COMPANY,

Plaintiff,

v.

CHEROKEE GIVES BACK  
FOUNDATION; THOMAS F. DARDEN II;  
THOMAS F. DARDEN III; SLOCUM H.  
FOGLEMAN III a/k/a S. H. "JIM"  
FOGLEMAN; SAMUEL W. WHITT;  
MAURICE J. COLEMAN; LATOYA KING  
a/k/a LATOYA GODLEY; and RSUI  
INDEMNITY COMPANY,

Defendants.

**ORDER ON DEFENDANTS'  
UNOPPOSED MOTION FOR LEAVE TO  
SEAL**

This matter is before the Court on Defendants Cherokee Gives Back Foundation, Thomas F. Darden II, Thomas F. Darden III, Slocum H. Fogleman III, Samuel W. Whitt, Maurice J. Coleman, and Latoya King's (collectively, "Defendants") Unopposed Motion for Leave to Seal Third-Party Defendant Steadfast Insurance Company's ("Steadfast") Amended Answer and Counterclaim (D.E. 154), Defendants' Memorandum in Support, and Exhibit A thereto (the "Motion to Seal"). For the reasons stated herein, pursuant to this Court's authority under Local Rule 79.2, the Court finds that the Motion should be granted.

**DISCUSSION**

A party may file a Motion to Seal with this Court pursuant to the requirements of Local Rule 79.2. Local Rule 79.2 references Section V.G. of the Electronic Case Filing

Administrative Policies and Procedures Manual (“Policy Manual”). That Section requires that all motions to seal be accompanied by a supporting memorandum that specifies the following:

- (i) the exact document or item, or portions thereof, for which filing under seal is requested;
- (ii) how such request to seal overcomes the common law or the First Amendment presumption to access;
- (iii) the specific qualities of the material at issue which justify sealing such material, taking into account the balance of competing interests in access;
- (iv) the reasons why alternatives to sealing are inadequate; and
- (v) whether there is consent to the motion.

Section V.G., Policy Manual. The Policy Manual also requires that any proposed order accompanying a Motion to Seal set forth the findings required under Section V.G.

As set forth below, the Court determines that Defendants have met the requirements set forth in the Policy Manual, and that Steadfast’s Amended Answer and Counterclaim, Defendants’ Memorandum in Support of this Motion, and Exhibit A thereto should be held under seal.

The Motion overcomes the common law and First Amendment presumptions to access because Steadfast’s Amended Answer and Counterclaim, Defendants’ Memorandum in Support of this Motion, and Exhibit A thereto contain confidential, non-public, and sensitive business information. Specifically, the documents contain information exchanged between the parties as part of confidential requests for insurance coverage, which are subject to confidentiality agreements. The documents further summarize the nature of the confidential dispute that led to the request for insurance coverage.

The material to be sealed is Steadfast’s Amended Answer and Counterclaim (D.E. 154), Defendants’ Memorandum in Support of this Motion, and Exhibit A thereto.

The references to confidential information in Steadfast's Amended Answer and Counterclaim are somewhat limited and therefore redaction is practical here. To allow access to the non-confidential information in Steadfast's Amended Answer and Counterclaim, Steadfast shall file an appropriately redacted version of that document that redacts all non-public information. However, it is not practical to redact Defendants' Memorandum in Support of their Motion to Seal and Exhibit A thereto and therefore they shall be sealed in their entirety.

Steadfast does not oppose the relief sought.

BASED UPON the foregoing, it is therefore ORDERED that Steadfast's Amended Answer and Counterclaim (D.E. 154), Defendants' Memorandum in Support of this Motion, and Exhibit A thereto shall be filed under SEAL with this Court.

Accordingly, Defendants Cherokee Gives Back Foundation, Thomas F. Darden II, Thomas F. Darden III, Slocum H. Fogleman III, Samuel W. Whitt, Maurice J. Coleman, and Latoya King's Unopposed Motion for Leave to Seal is GRANTED, and it is hereby ORDERED that Steadfast's Amended Answer and Counterclaim, Defendants' Memorandum in Support of this Motion, and Exhibit A thereto be filed under seal. Steadfast shall have ten (10) days to file a redacted version of its Amended Answer and Counterclaim.

SO ORDERED, this the 19<sup>th</sup> day of May, 2020.

A handwritten signature in black ink, reading "Louise W. Flanagan", written over a horizontal line.

Louise W. Flanagan  
United States District Judge